

**Finding of No Significant Impact
and
Decision
for
White-tailed Deer Damage Management in Oklahoma**

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program responds to a variety of requests for assistance from individuals, organizations, and agencies experiencing damage caused by wildlife in Oklahoma. WS activities are conducted in cooperation with other federal, state, and local agencies, as well as private organizations and individuals. Ordinarily, according to APHIS procedures implementing the National Environmental Policy Act (NEPA), individual wildlife damage management (WDM) actions may be categorically excluded (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). However, WS prepared an environmental assessment (EA) to comply with APHIS NEPA implementing regulations and interagency agreements, to facilitate planning, interagency coordination, streamline program management, and to involve the public. The predecisional EA, released by WS in December 2006, documented the need for white-tailed deer (*Odocoileus virginianus*) damage management (DDM) in Oklahoma and assessed potential impacts of various alternatives in relation to issues analyzed for responding to deer damage problems.

The proposed action was to allow the use of all DDM methods on any lands authorized in the State for the protection of agriculture, property, natural resources, and public safety. WS cooperates closely with the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF), Oklahoma Department of Wildlife Conservation (ODWC), U.S. Fish and Wildlife Service (USFWS), and other agencies as necessary. In Oklahoma, white-tailed deer are protected and managed by ODWC. WS, under ODWC permits, assists landowners, local governments, and organizations to resolve white-tailed deer damage problems. WS would also assist public entities and Tribes with DDM when requested.

A major overarching factor in determining how to analyze potential environmental impacts of WS' involvement in DDM is that such management can be conducted by state and local government, or private entities with or without assistance from WS and these groups are not necessarily subject to compliance with NEPA. ODWC has the authority to issue permits to individuals or other entities, and whether or not the action is done by WS, the action would likely be done. In fact, WS conducts much of its DDM as an agent of requesting cooperators that can obtain permits from ODWC and conduct DDM themselves. Additionally, ODAFF has stated in a letter that they would continue WDM programs in Oklahoma should WS not have that ability. This means that the Federal WS program has limited ability to affect the environmental outcome of DDM in Oklahoma, except that WS implemented DDM has been determined to have lower risks to nontarget species and the public than some alternatives discussed at depth in the EA. Therefore, WS has limited ability to affect the environmental *status quo*. Despite this limitation of federal decision-making in this situation, this EA process is valuable for informing the public and decision-makers of the substantive environmental issues and alternatives of DDM for resource protection.

Public Involvement

Two draft EAs were sent to agencies with professional expertise and regulatory authority covering different aspects of the EA for their review and comments. The comments that were received from these agencies were incorporated into the EA. Following interagency review of the draft EA, an EA was prepared and released to the public for a 40-day comment period. The resulting EA was sent directly in mid-December 2006 to 97 interested parties on National and State mailing lists compiled from direct requests for WS EAs and previous NEPA document mailings including Native American

Tribes, agencies, interested groups, and individuals. A "Notice of Availability" of the predecisional EA was published in the Daily Oklahoman, the newspaper with statewide coverage, for 3 consecutive days, December 22-24, 2006. The EA was also made available for public review at the WS State Office, 2800 N. Lincoln, Blvd., Oklahoma City, OK, or from requests received by personal contact, mail, or e-mail. A notice of availability was also publicly posted for general viewing at ODAFF. However, the public did not request additional EAs as a result of this process. The deadline for comments was January 31, 2007.

Public Comments

No comment letters were received in response to the predecisional EA.

Major Issues

Cooperating agencies and the public helped identify a variety of issues deemed relevant to the scope of this EA. These issues were consolidated into the following 4 primary issues that were considered in detail in the predecisional EA:

- Effects of DDM on White-tailed Deer Populations
- Effects on Nontarget Species, Including Plants and Threatened and Endangered (T&E) Species
- Impacts on Public Safety, Pets, and the Environment
- Humaneness of DDM Methods

Affected Environment

The proposed action is to continue conducting DDM where deer are causing damage to agriculture, property, natural resources or public health and safety to private, public, and Tribal properties in Oklahoma. DDM will only be conducted where the appropriate *Agreement for Control* or *Work Plan* is in place allowing DDM methods to be used and at the request of private landowners, ODAFF, ODWC, Tribe, or other agency that manages land or resources in need of protection. The current program's goal and responsibility is to provide service when requested within the constraints of available funding and manpower.

Alternatives Analyzed in Detail

Four potential alternatives were developed to address the issues identified above. Two additional alternatives were considered, but not analyzed in detail. A detailed discussion of the anticipated effects of the alternatives on the objectives and issues is described in Chapter 4 of the EA. The following summary provides a brief description of each alternative and its anticipated impacts.

Alternative 1. Integrated DDM Program (the Proposed Action/No Action Alternative). The "No Action" Alternative is a procedural NEPA requirement (40 CFR 1502.14(d)), and is a viable and reasonable alternative that could be selected. Consideration of the No Action alternative is required under 40 CFR 1502.14(d), and provides a baseline or the environmental *status quo* for comparing the potential effects with the other alternatives. In this EA, the No Action Alternative is consistent with CEQ's definition.

In the case of the DDM EA for Oklahoma, the No Action Alternative was the equivalent of the Proposed Action Alternative and the Current Program. Alternative 1 was determined to benefit individual resource owners/managers, while resulting in only minimal levels of impact to target and

nontarget wildlife populations including T&E species, potential benefits to plants and habitat from reduced deer overbrowsing, and very low risks to or conflicts with the public, pets, and the environment. Current lethal methods available for use are highly selective for target species and appear to present a balanced approach to the issue of humaneness when all facets of the issue are considered. WS responds to requests for DDM to protect human health and safety, agricultural crops and resources, property, natural resources, T&E species, and forestry in Oklahoma. To meet the goal, WS has the objective of responding to all requests from individual and corporate landowners, ODAFF, ODWC, other public agencies and Tribes for assistance with, at a minimum, technical assistance or self-help advice, or, where appropriate and where cooperative or congressional funding is available, direct damage management assistance with professional WS Specialists conducting damage management actions. An Integrated WDM approach would be implemented which allows the use of any legal technique or method, used singly or in combination, to meet the needs of requestors for resolving conflicts with deer. Agricultural producers and others requesting assistance would be provided with information regarding the use of effective nonlethal and lethal techniques. In many situations, the implementation of nonlethal methods such as exclusion-type barriers would be the responsibility of the requestor to implement which means that, in those situations, the only function of WS would be to implement methods difficult for the requestor to implement, if determined to be necessary. DDM implemented by WS would be allowed in the State, when requested, on private property sites, public facilities or other locations where a need has been documented, upon completion of an *Agreement for Control or Work Plan*. In addition, lethal management actions would require a deer take permit from ODWC. All management actions would comply with appropriate Federal, state, and local laws.

Alternative 2. Nonlethal DDM Only. Under this alternative, WS would use only nonlethal methods to reduce damage by white-tailed deer. Private landowners and state agencies would still have the option of implementing their own lethal control measures with the appropriate ODWC permit. Risks to or conflicts with target species would be about the same as Alternative 1. Risks to public and pet safety, the environment, and nontarget and T&E species, on the whole, including private efforts at DDM, would probably be somewhat greater than Alternative 1, but slightly less than or about the same as Alternative 3 or 4 because WS would provide some assistance. Program selectivity and effectiveness would probably be lower than Alternative 1, resulting in higher impacts in regards to the issue of humaneness. Personnel experienced in DDM often already know when and where practical nonlethal control techniques would work. Therefore, this alternative could result in the use of methods that are known to be ineffective in particular situations. Selectivity of DDM methods under this alternative would likely be less than Alternative 1 if reduced effectiveness leads to greater DDM efforts by less experienced and proficient private individuals, but greater than Alternatives 2 and 3. The hypothetical use of illegal methods could occur as under Alternative 4, but be similar or slightly higher than under Alternative 1.

Alternative 3. Technical Assistance with DDM Only. Under this alternative, WS would not provide any direct control assistance to persons experiencing white-tailed deer damage problems, but would instead provide advice, recommendations, and limited technical supplies and equipment. Lethal DDM would still occur, but would likely be conducted by persons with little or no experience and training, and with little oversight or supervision. Most persons conducting lethal DDM could obtain deer take permits from ODWC. It is likely that DDM impacts on the target species, deer, would be about the same as under Alternative 1. Risks to public and pet safety, the environment, and nontarget and T&E species would probably be more than Alternative 1, but only slightly more than or about the same as Alternative 2. The effectiveness of WS and selectivity of DDM methods would probably be lower than Alternative 1. Finally as discussed above, frustrated resource owners that have endured recurring losses may resort to the use of illegal or inappropriate techniques that could result in unknown consequences.

Alternative 4. No Federal DDM Program. This alternative would consist of no federal involvement in DDM in Oklahoma. Neither direct operational DDM nor technical assistance on DDM techniques would be available from WS. The majority of the formerly federal DDM assistance would be borne by ODAFF. Private individuals could increase their efforts if ODAFF were unable to respond adequately which means more DDM would be conducted by persons with less experience and training, and with little oversight or supervision. Risks to the public, pets, nontarget and T&E species, and the environment would probably be greater than under Alternative 1, and humaneness of DDM methods could be lower. Target species take and impacts to plants and habitat would likely be similar, under this Alternative, to the Proposed Action Alternative. Lastly, frustrated resource owners that have endured recurring losses may resort to the use of illegal or inappropriate techniques that could result in unknown consequences, and would likely be highest under this alternative.

Alternatives Considered, but Not Analyzed in Detail

1. Compensation for Deer Damage Losses
2. Bounties
3. Short Term Eradication and Long Term Population Suppression
4. Lethal DDM Only

DDM Methods Not Considered for Use by WS

1. Live Trap and Relocation
2. Population Stabilization through Mechanical Birth Control

Comments Regarding the Alternative Selection

No comments were received regarding alternative selection.

Finding of No Significant Impact

The Predecisional December 2006 EA is hereby accepted as the Final EA for DDM in Oklahoma. The analysis in the EA indicated that there will not be a significant impact, individually or cumulatively, on the quality of the human environment as a result of the proposed action. I agree with this conclusion and therefore find that an Environmental Impact Statement need not be prepared. This determination is based on the following factors:

1. DDM, as conducted by WS in Oklahoma, is not regional or national in scope. It is a statewide program and the scope was discussed in the EA. Under the proposed action, WS would continue to assist individuals and entities with deer damage as necessary. Even if WS were not involved, under state law most DDM would be conducted by private individuals or entities, or state and local government that are not subject to compliance with NEPA.
2. The proposed action would pose minimal risk to public and pet safety. No injuries to any member of the public are known to have resulted from WS DDM activities. In addition, a risk assessment has analyzed the use of DDM methods used by WS (USDA 1997) and these were found to pose only minimal risks to the public, pets, and nontarget wildlife species. This issue was addressed in the EA and the Proposed Action Alternative was found to have the least impacts.
3. There are no unique characteristics such as park lands, prime farm lands, wetlands, wild and scenic areas, or ecologically critical areas that would be significantly affected except positively.

4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to deer control, this action is not highly controversial in terms of size, nature, or effect.
5. Based on the analysis documented in the EA, the effects of the proposed DDM program on the human environment would not be significant. The effects of the activities under the proposed action are not highly uncertain and do not involve unique or unknown risks. If WS were unable to respond adequately under the other alternatives, a potential exists that could involve unique and unknown risks by non-professionals implementing DDM and frustrated property owners that have been ineffective with DDM methods resorting to the illegal or unwise use of DDM methods such as chemicals.
6. The proposed action would not establish a precedent for any future action with significant effects. All issues under the proposed action were discussed thoroughly, and these would not add cumulatively to any known future actions that would result in significant effects.
7. No significant cumulative effects on the quality of the human environment were identified through the EA.
8. The proposed DDM activities would not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor would they likely cause any loss or destruction of significant scientific, cultural, or historical resources. If anything, the proposed action would have beneficial effects on these resources.
9. An evaluation of the proposed action and its effects on T&E species determined that no significant adverse effects would occur to such species. This is supported by the 1992 Biological Opinion (USDA 1997) and a subsequent Oklahoma WS Biological Assessment with Concurrence from USFWS in 1999. No other T&E species have been listed in Oklahoma since 1999.
10. The proposed action would be in compliance with all federal, state, and local laws imposed for the protection of the environment. The proposed activity does not violate the Endangered Species Act or any other law. As allowed by state law, DDM could be conducted by private individuals or entities, or state and local agencies that are not subject to compliance with NEPA if WS were not involved.
11. There were no irreversible or irretrievable resource commitments identified in this EA, except for a minor consumption of fossil fuels for routine operations.

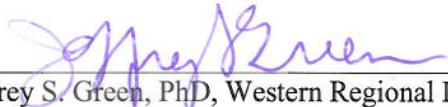
Literature Cited

- U.S. Department of Agriculture (USDA). 1997. Animal Damage Control Program Final Environmental Impact Statement. (*Revision*) USDA-APHIS-WS, Operational Support Staff, 6505 Belcrest Rd., Room 820 Federal Bldg, Hyattsville, MD 20782. 314 pp + App.

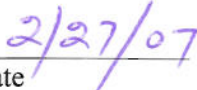
Decision

I have carefully reviewed the EA, interagency comments, and lack of public input resulting from the public involvement process. I believe the issues and objectives identified in the EA would be best addressed through implementation of Alternative 1 (the Proposed or No Action Alternative to continue the current program). Alternative 1 is therefore selected because (1) it offers the greatest chance at maximizing effectiveness and benefits to affected resource owners and managers within current program funding constraints; (2) it will maximize selectivity of methods available; (3) it offers a balanced approach to the issue of humaneness when all facets of the issue are considered; (4) it will continue to minimize risk to or conflicts with the public and pets; and (5) it will minimize risks to nontarget and T&E species. WS in Oklahoma will continue to use an IWDM approach in compliance with all the applicable standard operating procedures listed in Chapter 3 of the EA.

For additional information regarding this decision, please contact Kevin Grant, State Director, USDA-APHIS-WS, 2800 North Lincoln Blvd., Oklahoma City, OK 73105-4298 - (405) 521-4039.



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Date